

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE JUDICIAL DISCIPLINARY
PROCEEDING CONCERNING
JUDGE DIANA R. HALL

No.

(Commission on Judicial Performance
Inquiry No. 175)

PETITION FOR ORDER RELIEVING SPECIAL
MASTERS OF THEIR ASSIGNMENT AND DIRECTING
APPOINTMENT OF NEW SPECIAL MASTERS; EXHIBITS;
MEMORANDUM OF POINTS AND AUTHORITIES

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TO THE HONORABLE RONALD M. GEORGE, CHIEF JUSTICE, AND
TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME
COURT OF THE STATE OF CALIFORNIA:

Petitioner, the Commission on Judicial Performance of the State of California, hereby petitions the Court for an Order relieving the three special masters of their assignment as special masters (as described more fully below), and directing the appointment of new special masters to hold a de novo hearing to take and receive evidence and report thereon in the pending judicial disciplinary proceedings concerning Judge Diana R. Hall, and by this petition alleges as follows:

1. The Commission on Judicial Performance (Commission) is an agency of California state government, created pursuant to article VI, section 8, of the California Constitution, and charged under article VI, sections 18, 18.1 and 18.5 of the Constitution, with the responsibility and authority for maintaining high ethical standards by judges in the State of California for purposes of protecting the public and the reputation of the judiciary.

2. Pursuant to the authority granted the Commission by article VI, section 18, subdivision (i), of the Constitution, the Commission has promulgated rules pertaining to the investigation of judges, and for formal proceedings against judges when there is cause to believe there is misconduct by a judge. Commission Rule 121 provides for the appointment of three special masters to hear and take evidence and report thereon in a matter in which the Commission has instituted formal proceedings against a judge pursuant to Commission Rule 118.

3. On July 25, 2005, the Commission instituted formal proceedings against Judge Diana R. Hall, a judge of the Santa Barbara County Superior Court (*Hall Inquiry*). A true and correct copy of the Commission's Notice of Formal Proceedings against Judge Hall is attached as Exhibit A and incorporated by reference herein.

4. On September 20, 2005, this Court issued an Order appointing three special masters in the *Hall Inquiry* to hear and take evidence and report thereon to the Commission. A true and correct copy of the Court's Order is attached as Exhibit B and incorporated by reference herein.

5. The evidentiary hearing before the special masters duly commenced on November 14, 2005, at the Court of Appeal for the Second District, Division Six, in Ventura, California, and concluded for the purposes of hearing and taking evidence approximately midday on November 16, 2005.

6. Later on November 16, 2005, the Commission was notified by the Executive Officer and Presiding Judge of the Monterey County Superior Court that an individual who was not otherwise involved in the *Hall Inquiry* had filed a sworn declaration in unrelated civil litigation pending in the Superior Court of Monterey County (Monterey Declaration). A true and correct copy of the Monterey Declaration that was provided that afternoon to the Commission was served on the parties and the special masters on November 17, 2005, and a true and correct copy thereof is attached hereto as Exhibit C and incorporated by reference herein.

7. The Monterey Declaration contains allegations suggesting serious unjudicial conduct, including bias against Judge Hall, on the part of the presiding special master and attributes statements to him that suggest that the three special masters had prejudged contested issues in the matter pending before them. There has been substantial legal and general media coverage concerning the allegations.

8. On November 17, 2005, the Commission convened a meeting and issued its Order Staying Proceedings, a true and correct copy of which is attached hereto as Exhibit D and incorporated by reference herein.

9. On November 23, 2005, the Commission reconvened, and issued its Order re Future Proceedings in the Inquiry Concerning Judge Diana R.

Hall. A copy of that order is attached hereto as Exhibit E and incorporated by reference herein. As recited in the order, notwithstanding that there has been no final determination concerning the accuracy, or lack thereof, of any of the allegations in the Monterey Declaration, the Commission determined that an appearance of impropriety has arisen and that the fairness of the proceedings before the current special masters has been fundamentally and irreparably compromised. Therefore, and because the interests of justice require that the *Hall Inquiry* proceed free of questions concerning fundamental fairness to all concerned, the Commission determined that the proceedings should not continue before the current panel of special masters, and that a new panel of special masters, to be appointed by this Court, should proceed de novo to hear and take evidence and report thereon to the Commission.

10. On November 30, 2005, Judge Hall filed with the Commission a request for the Commission to vacate its order of November 23, 2005, and to dismiss the *Hall Inquiry*. A true and correct copy of Judge Hall's request (without exhibits) is attached hereto as Exhibit F and incorporated by reference herein. Although Judge Hall "agrees that the matter could not go forward before the appointed Masters in light of [the Monterey Declaration]" (Exh. F, p. 3), she urges that dismissal of the entire *Hall Inquiry* is required. (See Exh. F.)

11. On December 14, 2005, the Commission denied Judge Hall's request of November 30, 2005 for rescission and dismissal. A true and correct copy of the Commission's "Order Denying Request for Rescission of Order of November 23, 2005 and for Dismissal of Proceedings" is attached hereto as Exhibit G and incorporated by reference herein.

WHEREFORE, the Commission hereby requests the Court to issue an Order relieving the current panel of special masters of their assignment as special masters, and directing the appointment of new special masters pursuant to established procedures, to proceed de novo to hear and take evidence and report thereon to the Commission.

The Commission also requests it be granted such other and further relief as the Court may determine to be appropriate and just.

Dated: December 15, 2005

Respectfully submitted,

Jay Linderman
Legal Advisor to Commissioners
Commission on Judicial Performance

Attorney for Petitioner
Commission on Judicial Performance

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PETITION

Pursuant to its authority under article VI, section 18 of the California Constitution, the Commission instituted formal proceedings against Hon. Diana R. Hall, a judge of the Santa Barbara County Superior Court. (Pet., ¶¶ 1, 3.) The Commission requested this Court, pursuant to Commission Rule 121, to appoint three special masters to hear and take evidence and report to the Commission concerning the charges against Judge Hall.

By its Order of September 20, 2005, this Court appointed three special masters to preside over the evidentiary hearing in the *Hall Inquiry*. (Pet., ¶¶ 3, 4.) On November 16, 2005, the same day as the evidentiary hearing before those special masters concluded, the Monterey Declaration was filed. (Pet., ¶¶ 5, 6.)

Following the issuance of its initial stay order on November 17, 2005 (see Pet., ¶8), the Commission determined at its meeting on November 23, 2005, that as a result of allegations made in the Monterey Declaration, an appearance of impropriety has arisen and that the fairness of the proceedings before the current special masters has been fundamentally and irreparably compromised. (Pet., ¶ 9.)

The Commission determined on November 23, 2005, that the interests of justice require that the proceedings should not continue before the current panel of special masters. (Pet., ¶ 9.) Judge Hall concurs that the “matter could not go forward before the appointed Masters in light of [the Monterey Declaration.” (See Pet., ¶ 10.

Because of the foregoing, the Commission respectfully requests the Court to relieve the current panel of special masters of their assignment, and, pursuant to Commission Rule 121, that the Court direct the

appointment of new special master pursuant to established procedures, to hear the matter de novo.

Dated: December 15, 2005

Respectfully submitted,

Jay Linderman
Legal Advisor to Commissioners
Commission on Judicial Performance

Attorney for Petitioner
Commission on Judicial Performance